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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,981	10/22/2001	George D. Escobar	06975-166002	7232
26171 7590 05/17/2007 FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER BROWN, RUEBEN M	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 05/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/982,981

Applicant(s)

ESCOBAR ET AL.

Examiner

Reuben M. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25, 27-32 and 34-83 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25, 27-32 and 34-83 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-25, 27-32 & 34-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitnik, (U.S. Pat # 6,160,570), in view of Welsh, (U.S. Pat # 6,757,691).

Considering claim 1, the claimed system comprising

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‘a display interface’, is met by the digital TV receiver system of Sitnik, (Fig. 2; col. 4, lines 35-67; col. 6, lines 22-67).

‘input for receiving multiple viewer commands over a predetermined interval of time, each of the multiple of viewer commands being a command to invoke viewing of content at the time of entry, wherein content includes TV channel content, web page content, or e-mail content’, reads on non-volatile storage 22, col. 6, lines 35-67; col. 7, lines 1-55; col. 8, lines 1-15, which receives viewer input commands via user interface 29 and stores them, as a user profile (Fig. 3; S301, S302).

‘interface for sending the multiple viewer commands received over the predetermined interval of time, for analysis, the analysis including determination of viewer preferences for a viewer based on the multiple viewer commands’, also reads on (Fig. 3; col. 1, lines 55-67; col. 8, lines 3-10).

As for the additionally claimed ‘interface for receiving customized EPG data, the customized EPG data being determined based on the viewing preferences for the viewer’ and ‘a processor for creating customized EPG display from the received customized EPG data for output to the display interface’, Sitnik merely discloses that the user viewing preference data may be used to select from one or more alternative images, but does not teach that an EPG may also be customized, see col. 8, lines 18-30. Nevertheless Welsh, which is in the same field of

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endeavor, discloses managing EPG data in a manner by filtering the EPG data based on the observed viewing pattern of the user, see Abstract; col. 9, lines 32-48; col. 11, lines 60-65.

Welsh also discloses that the monitor agent 724 collects the user's session data (the monitor agent 724 is located at the content provider 718, remote from the viewer, see Fig. 7), which reads on the claimed subject matter of, 'sending the multiple viewer commands for analysis, col. 9, lines 31-65; col. 15, lines 20-58; col. 17, lines 1-10.

It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Sitnik with the feature of customizing an EPG based on viewer's preferences for the advantage of minimizing the time needed by a viewer to access desired content, as taught by Welsh, col. 5, lines 50-60.

Considering claims 2, 13 & 37, the claimed 'memory for storing the multiple viewer commands' is met by memory 22, of Sitnik, col. 6, lines 30-45.

Considering claims 3, 14 & 38 wherein 'the stored multiple commands are periodically accessed by the processor and sent to host for analysis', reads on Welsh col. 8, lines 20-24; col. 9, lines 50-61; col. 14, lines 20-30.

Considering claims 4 & 39, see Welsh, col. 12, lines 7-56; col. 16, lines 7-38, which discusses a web-based TV system that helps users navigate TV channel data, by filtering the

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content. Welsh discloses that the filtered content is displayed on the user's computer/TV monitor via a browser, once the instant browser is launched.

Considering claims 5-7, 15-17 & 40-42, see Welsh, col. 9, lines 32-48; col. 17, lines 12-30.

Considering claims 8, 18 & 43, Sitnik teaches that commercials may be the content alternatively chosen based on viewing preference data, col. 2, lines 17-26; col. 3, lines 1-6.

Considering claims 9, 21, 28, 35 & 47, the 'mini-guides' reads on the filtered EPG of Welsh.

Considering claims 10-11, 19-20 & 44-46, see col. 19, lines 38-65 & col. 20, lines 8-35, Official Notice is taken that at the time the invention was made, it was known in the art to determine the identity of a user based on the observed TV watching behavior. It would have been obvious for one of ordinary skill in the art to, to operate the combination of Sitnik & Welsh so that the identify of a user is determined from the observed pattern, at least for the benefit of avoiding the user having to input used ID or password information.

Considering claims 12, the claimed elements of a method for displaying customized EPG, corresponds with subject matter mentioned above in the rejection of claim 1, and is likewise treated.

Considering claim 22, the claimed elements of a method for creating an EPG, corresponds with subject matter mentioned above in the rejection of claim 1, and is likewise treated.

Considering claims 23-25, 30-32, 34, see Sitnik, col. 7, lines 40-50 & Welsh, col. 7, lines 5-30;

Considering claims 27, 34, see Welsh, col. 7, lines 10-50.

Considering claims 29, 36 & 56, the claimed system or host, corresponds with subject matter mentioned above in the rejection of claim 1, and is likewise treated.

Regarding the first and second processors recited in claim 36, 'the first processor' corresponds with the operation of the predictive content manager 722, Welsh (Fig. 7; col. 9, lines 50-67 thru col. 10, lines 1-67. The claimed 'second processor' reads on the operation of the content provider 718, col. 12, lines 39-55, Welsh, in conjunction with the browser at the client computer system.

Considering claims 48 & 52, the claimed STB reads on the digital TV receiver of Sitnik, Fig. 1.

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Considering claims 49-51, 53-55 & 57-59, see Sitnik, col. 4, lines 40-42; col. 6, lines 21-45.

Considering claims 60-83, Sitnik is directed to monitoring and recording user channel change and channel selection information. Furthermore, Welsh discussed monitoring the web page visited by the user, (col. 3, lines 20-40; col. 7, lines 15-35; col. 12, lines 55-65). As for 'e-mail', Welsh teaches that e-mail is one of the services provided over the Internet. Thus, it would have been obvious for one of ordinary skill in the art to include the subscriber's e-mail usage, since the system already records the user's clickstream, see col. 1, lines 35-45 & col. 7, lines 15-40.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- A) Bedard, Hendricks Teaches customizing an EPG base don user's channel selections.
- B) Hoyle Teaches targeted advertisement based on a user's web history.

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5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown


HAITRAN
PRIMARY EXAMINER